

OCP Group Refuses to Participate in South Africa Trial that Undermines UN Resolution Process & International Law

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CASABLANCA—13 July, 2017—By deciding to hold over for trial the matter of the phosphate cargo vessel “Cherry Blossom,” which was seized in South African waters in April after an unscheduled stop, the South African court has rendered a transparently political opinion and committed a serious abuse of power. This judicial over-reach threatens the freedom and security of international trade, while it contradicts core legal concepts and undermines the United Nations (UN) resolution process. Thus, participating in any trial before this forum would give further credit to a process without legal legitimacy.

Today, we notified the Registrar of the South African Court that OCP Group and its subsidiary Phosboucraa refuse to participate in a trial relating to the seizure of a vessel transporting our phosphate cargo through South African waters.

We do not have the slightest doubt of our capacity to prevail on the merits of the facts and the rule of law in an unbiased forum. However, we have reluctantly come to the conclusion that participating in any trial before this forum would give further credit to a process without any legal legitimacy.

Not only has the Court ruled in this matter in ways that contradict basic principles of international law, but its decision also constitutes a serious and dangerous interference in the ongoing negotiating process conducted under the auspices of the UN Security Council.

Indeed, on 28 April, just days before this matter was launched, the UN Security Council reaffirmed its call for all concerned parties to engage in negotiations without preconditions and in good faith. The South African court’s unquestioning acceptance of the biased and abusive allegations put forward by the complainants makes plain its utter lack of respect for the UN process and its role in abetting this circumvention of the internationally-supported talks.

For all these reasons, OCP and Phosboucraa refuse to participate in the judicial process in South Africa and reject the legitimacy of the South African court intervening in a matter that is being appropriately conducted at the highest international levels.

Additional Background

On 1 May, in responding to a request by the Polisario, a South African judge ordered the seizure of a cargo of phosphate from Phosboucraa leading to a seizure of the vessel “Cherry Blossom” and its cargo during an unscheduled stop in Port Elizabeth, South Africa. This preliminary decision was founded on a political treatise masking as a legal filing submitted by the complainant.

In its decision on 15 June, even while acknowledging the complexity and the international dimensions of the matter, the South African court decided to send the case forward for a judgement on the merits. In doing so, the Court claimed for itself an unwarranted jurisdictional competence, contravening basic principles of international law.

This preliminary decision interferes dangerously with the international process already underway that is being led by the UN Security Council. It is in stark contrast to the clear-eyed decision of a Panamanian court which, in response to a similarly opportunistic complaint by the Polisario against a phosphate cargo vessel entering the Panama Canal, ruled on 5 June that it had no jurisdictional

competence to address the matter. Notably, the Panamanian court called attention to the clear political character of the complainant's request and the complainant's inability to demonstrate any right of property to the cargo in question.

The South African court outrageously dismissed the doctrine of the sovereign immunity of a state, a fundamental principle of international law that recognizes the equality of sovereign states, which would logically nullify any attempt to bring this matter before a local court. In fact, OCP and Phosboucraa operate all of their mines under the authority of Moroccan law and in full conformity and compliance with applicable international law.

OCP and Phosboucraa consider the seizure in South Africa to be an act of political piracy committed under judicial cover. They therefore reserve their right to pursue and protect their property rights for this cargo using all means permitted by international law.

For more information visit www.phosphateshippingtruth.com [1].

About Phosboucraa

OCP Group's operations at Boucraa, in the Southern Provinces of Morocco (the "Region"), are conducted by its wholly-owned subsidiary Phosboucraa, whose reserves represent 1.6% of Morocco's total phosphate reserves. Phosboucraa is the largest private employer in the Region employing nearly 2,200 people of which 76% are local. Phosboucraa's operations support 50 local subcontracting companies, which in turn employ 627 people from the Region. All Phosboucraa profits are reinvested locally in maintaining and developing its operations and supporting and developing dynamic and thriving regional and local ecosystems, economically and socially. The ongoing USD 2 Billion investment program includes the development of a large-scale fertilizer plant dedicated to the African continent, a flotation and beneficiation unit to preserve the phosphate resources and increase the lifespan of the reserves, a port, a water desalination plant with large excess water capacity destined for the local community and region, and a technopole with a world class research university with a focus on arid agriculture and renewable energies. These investments and the initiatives supported by the Phosboucraa Foundation are intended to ensure that Phosboucraa will be an ongoing source of wealth and prosperity for the Region and its community.

For more information visit: www.phosboucraa.ma [2]

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